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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,544	01/18/2002	Joerg Jahnke	P-5513	7147
24209 7590 06/07/2010 GUNNISON, McKAY & HODGSON, L.L.P. 1900 GARDEN ROAD, SUITE 220 MONTEREY, CA 93940				
EXAMINER				
PANNALA, SATHYANARAYA R				
ART UNIT		PAPER NUMBER		
2164				
MAIL DATE		DELIVERY MODE		
06/07/2010		PAPER		

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOERG JAHNKE and DIETMAR CORDES

Appeal 2009-004979
Application 10/054,544
Technology Center 2100

Decided: June 7, 2010

Before LEE E. BARRETT, LANCE LEONARD BARRY, DEBRA K.
STEPHENS, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-33. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The Appellants describe the invention at issue on appeal as follows.
"The present invention relates . . . to a method and an apparatus for storing data of an XML-[i.e., eXtended Markup Language-] document in a relational database and to the resultant data structure." (Spec. 1.)

ILLUSTRATIVE CLAIM

16. A memory data structure comprising:

an element table wherein said element table is configured to store a plurality of element records corresponding to a plurality of elements of a markup document so that a relational database includes a plurality of element records, and further wherein each element record includes an assigned element ID field and an element data set field; and

an attribute table wherein said attribute table is configured to store a plurality of attribute records corresponding to a plurality of attributes of said markup document so that said relational database includes a plurality of attribute records, and further wherein each attribute data record includes an element ID field and an attribute data set wherein said element table and said attribute table include content of said markup document and further wherein a new markup document having a same content as said markup document can be constructed by retrieving said element data set in each of said plurality of element records stored in said element table of said relational database and by retrieving said attribute data set in each of said plurality of attribute records stored in said attribute table of said relational database.

REJECTION

Claims 1-33 are rejected under 35 U.S.C. § 102(e) as anticipated by US Patent 6,721,727 ("Chau").

ISSUE

The Examiner finds that in Chau "[e]ach row of an Application (as example in Fig. 3, Sales Table) [sic]. It has multiple columns and multiple rows and each row will have a XML document." (Ans. 23-24.) The Appellants argue that "storing a record with a root_id and an entire XML document in the Application Table fails to teach anything concerning 'storing an element record for every element of said plurality of elements' of the markup document so that a 'plurality of element records [are] stored in said element table.'" (Amended App. Br. 20.) Therefore, the issue before us is whether the Examiner has erred in finding that Chau stores an element record for each element of the plurality of elements in a markup document so that a plurality of element records are stored in an element table as required by claims 1-33.

FINDINGS OF FACT

Chau summarizes its invention as follows.

In accordance with one aspect of the present invention, data is stored in a data store connected to a computer. A main table is created having a column for storing a document, wherein the document has one or more elements or attributes. One or more side tables are created, wherein each side table stores one or more elements or attributes. Then, the side tables are used to locate data in the main table.

(Col. 2, ll. 61-67.)

Figure 3 of the reference follows.

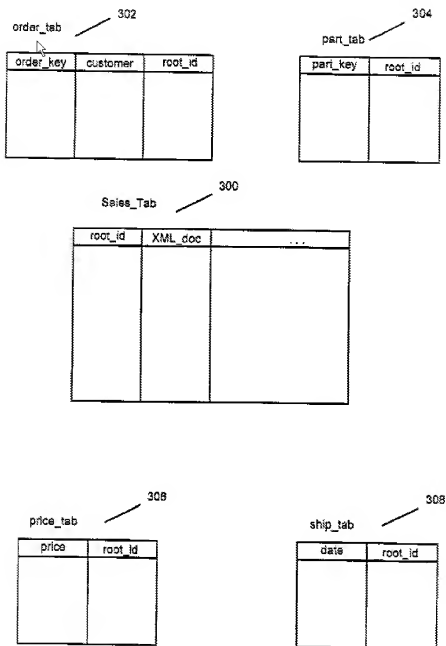


FIG. 3

FIG. 3 illustrates an application or main table and its four side tables.
(Col. 3, ll. 33-34.)

ANALYSIS

Besides the aforementioned argument, the Appellants also argue that "the storing of the entire XML document in the Application Table teaches away" (Amended App. Br. 20.) "A reference is no less anticipatory if, after disclosing the invention, the reference then disparages it [T]he question whether a reference 'teaches away' from the invention is inapplicable to an anticipation analysis." *Celeritas Techs., Ltd. v. Rockwell Int'l Corp.*, 150 F.3d 1354, 1361 (Fed. Cir. 1998). Here, because the Examiner's rejection is based on anticipation, the question of whether Chau teaches away from the claimed invention is inapplicable.

Turning to what is applicable to the question of anticipation, "[i]t is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim, and that anticipation is a fact question" *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1457 (Fed. Cir. 1984)). Here, Chau teaches storing a document, which can comprise a plurality of elements, in an application or main table. Figure 3 of the reference shows such a table 300. The same Figure, however, shows that an entire document ("XML_doc") is stored in a single record of the table ("Sales_Tab"). As observed by the Appellants' (Amended Appeal Br. 15), the text of Chau confirms this showing by explaining that "[f]or XML columns, an entire XML document is always stored as the column data." (Col. 22, ll. 13-15.)

Consequently, we agree with the Appellants that "storing an entire XML document in a record of the prior art Application Table is different from storing an element record for an element" (Amended Appeal Br. 20)

for each of a plurality of elements constituting a document. The absence of storing an element record for each element of the plurality of elements in a markup document so that a plurality of element records are stored in an element table negates the anticipation rejection of the claims.

Based on the aforementioned facts and analysis, we conclude that the Examiner has erred in finding that Chau stores an element record for each element of the plurality of elements in a markup document so that a plurality of element records are stored in an element table as required by claims 1-33.

DECISION

We reverse the rejection of claims 1-33 under 35 U.S.C. § 102(e).

REVERSED

rwk

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